

17 April 2025

Tobacco Regulation Project team  
Department of Justice and Community Safety  
Victoria State Government  
Via: [tobaccoregulationsconsultation@justice.vic.gov.au](mailto:tobaccoregulationsconsultation@justice.vic.gov.au)

## **Re: Regulations to support the Victorian tobacco business licensing scheme**

Dear Tobacco Regulation Project team,

Lung Foundation Australia (LFA) strongly support the *Tobacco Amendment (Retailer and Wholesaler Licensing Scheme) Regulations 2025* (hereafter **the Regulations**). As the [peak body](#) for lung health and lung disease, we work to support the National Preventive Health Strategy 2021-2030 goal to reduce tobacco use, and the National Tobacco Strategy [NTS] 2023-2030 actions on tobacco outlet restrictions, consistent national licensing, online sales restrictions, and sales restrictions in liquor-licensed venues. LFA has, and continues to, submit feedback to federal and state/territory tobacco and e-cigarettes legislation and regulation consultations.

We affirm that a positive tobacco business licensing scheme in Victoria will help reduce illicit sale of tobacco, facilitate compliance monitoring and enforcement, and may deter some retailers from selling tobacco products at all. The implementation of a licensing scheme has strong support from the majority of Victorians, with 71% affirming this measure in the 2022-23 National Drug Strategy Household Survey [NDSHS] – a statistically significant increase from the 2019 survey (62%).<sup>1</sup> We commend several aspects of the proposed Victorian scheme, notably the requirement for licensees to provide sales data and a public register, and a sound fit and proper person test. To strengthen the Regulations, LFA recommend the following five measures:

- a. Ban online point-of-sale of tobacco products**
- b. Restrict licensees from the display of products aimed at minors**
- c. Ban tobacco product vending machines in liquor licensed venues\***
- d. Include a provision to refuse licences based on proximity to sensitive locations**
- e. Include e-cigarettes, nicotine pouches and novel nicotine products in enforcement**

*\* We understand that this measure can only be actioned with an amendment of the Act.*

### **About Lung Foundation Australia**

Lung Foundation Australia is Australia's leading lung health peak body and national charity. Founded in 1990, we are the trusted point-of-call for the 1 in 3 Australians living with a lung disease. We work to improve lung health and reduce the impact of lung disease and lung cancer.

To do this we: deliver information and support services; facilitate access to peer support and exercise programs; coordinate clinical improvement activities and training for health professionals; provide research grants; fundraise; and advocate. Our telephone-based support services comprise respiratory nurses, specialist lung cancer nurses, a lung cancer support nurse, and a social work service. In partnership with Australians living with lung disease, and like-minded organisations, we advocate for:

- reducing risk factors and improving early diagnosis
- equitably accessible evidence-based treatment and care
- strengthened government lung health policies, programs, and strategies
- improved health professional training, data infrastructure and research investment.

## Lung Foundation Australia recommendations for Victoria's tobacco licensing scheme

### a) Ban online point-of-sale of tobacco products

Online sales of tobacco products contravene Australia's obligations under Article 13 of the WHO Framework Convention on Tobacco Control that states: "Internet sales of tobacco inherently involve advertising and promotion as defined in the Convention."<sup>2, p. 8</sup> The Convention defines 'tobacco advertising and promotion' as: "any form of commercial communication, recommendation or action with the aim, effect or likely effect of promoting a tobacco product or tobacco use either directly or indirectly".<sup>3, p. 10</sup> South Australia has prohibited online sales and we encourage Victoria to do the same.

### b) Restrict licensees from the display of products aimed at minors

A 2025 review of Australian tobacco control laws on provisions related to protecting children from supply and promotion of tobacco products in retail settings details several instances of tobacconist practices likely to attract minors into the store.<sup>4, p.12</sup> At a bare minimum, to reduce children from exposure to tobacco marketing, the Victorian regulations should ban tobacconist licensees from selling products primarily intended for children (toys and confectionery) and for other licensees, the provision of a minimum distance between toy or confectionery displays and tobacco sales counters or price boards.

### c) Ban tobacco product vending machines in liquor licensed venues\*

Vending machines act as a visual cue that makes it more difficult for tobacco users who are trying to quit or who have recently quit to not smoke. Further, research has demonstrated strong behavioural links between smoking and consuming alcohol,<sup>5</sup> and encountering smoke at liquor licensed venues is associated with smoking relapse.<sup>6</sup> South Australia and the ACT (new vending machine licences are not granted and existing licences are not renewed) have adopted this evidence-based measure<sup>7</sup> and we encourage Victoria to do the same. The majority of Victorians support banning the sale of tobacco products in places where people are consuming alcohol (54%, the first time this was asked in the NDSHS).<sup>1</sup>

### d) Include a provision to refuse licences based on proximity to sensitive locations

Victoria could lead the nation in being the first to prescribe licence exclusion zones based on proximity to sensitive locations such as schools. Such a measure (prohibition of licences within 150 metres of a school) was a recommendation of the 2024 Parliament of Victoria Public Accounts and Estimates Committee Inquiry into vaping and tobacco controls. While the Victorian Government response<sup>8</sup> noted that the tobacco regulator may impose conditions on a licence regarding operation in certain locations and the Minister may also give directions on factors to consider when assessing a licence application, this is insufficient action – the recommendation of the Committee should be in the regulations.

### e) Include e-cigarettes, nicotine pouches and novel nicotine products in enforcement

Following the implementation of Federal reforms, LFA has encouraged all states and territories to intensify their compliance, monitoring and enforcement measures to prevent e-cigarette products being sold outside of the Schedule 3 (Pharmacist Only) Medicine model. Licence conditions for the Victorian Scheme should prohibit the possession, supply, manufacture or import of e-cigarettes in contravention of the Commonwealth *Therapeutic Goods Act 1989* and nicotine products in contravention of the Victorian *Drugs, Poisons and Controlled Substances Act 1981*.

If you would like to discuss our response further, please contact Paige Preston, General Manager of Policy, Advocacy and Prevention, at [paigep@lungfoundation.com.au](mailto:paigep@lungfoundation.com.au) or 07 3251 3645.

Yours sincerely,



**Mark Brooke**  
Chief Executive Officer  
Lung Foundation Australia

## References

1. Australian Institute of Health and Welfare. National Drug Strategy Household Survey 2022–2023. 2024. <https://www.aihw.gov.au/reports/illicit-use-of-drugs/national-drug-strategy-household-survey>.
2. WHO Framework Convention on Tobacco Control. Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control, 2023. <https://fctc.who.int/publications/m/item/tobacco-advertising-promotion-and-sponsorship>
3. WHO Framework Convention on Tobacco Control. Glossary of terms - WHO FCTC and its instruments: Second Version - 2015. 2015. <https://fctc.who.int/publications/m/item/glossary-of-terms---who-fctc-and-its-instruments>.
4. Rooney T, Okninski M, Morphett K, et al. Protecting children from tobacco products in retail environments: A review of Australian tobacco control laws. *Drug Alcohol Rev* 2025, doi: 10.1111/dar.14033
5. Room R. Smoking and drinking as complementary behaviours. *Biomed Pharmacother* 2004; **58**(2): 111-5, doi: 10.1016/j.biopha.2003.12.003
6. McKee SA, Krishnan-Sarin S, Shi J, et al. Modeling the effect of alcohol on smoking lapse behavior. *Psychopharmacology (Berl)* 2006; **189**(2): 201-10, doi: 10.1007/s00213-006-0551-8
7. Grace C, Smith L. 11.4 State and territory legislation. In: Greenhalgh E, Scollo M, Winstanley M, editors. Tobacco in Australia: Facts and issues <http://www.tobaccoinaustralia.org.au/chapter-11-advertising/11-4-state-and-territory-legislation>; 2018.
8. Department of Health. Victorian Government Response to Inquiry into Vaping and tobacco controls 2025. <https://www.parliament.vic.gov.au/495d37/contentassets/e44943a277a14626a02ad081e12d4b4b/victorian-government-response-to-paec-final-report-into-vaping-and-tobacco-controls.pdf>.